

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 21143 of 2004

Between:

Ch. Venkata Kishtaiah, S/o. Late Ch. Venkata Subbaiah,

Aged about 54 years, Occ:Agriculture,
R/o. Paturu Village, Kovur Mandal, Nellore District.

..... PETITIONER

AND

1 The Regional Joint Commissioner of Endowments,

Tirupathi, Chittoor District.

2 The Assistant Commissioner of Endowments, Nellore, Nellore District.

3 Sri Veereswara Swamy @ Veerabadra Swamy Temple,

Paturu Village, Kovur Mandal, Nellore District,

Rep. by its Person in Management.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate order or direction or a Writ more particularly a writ in the nature of Mandamus declaring the action of the respondent directing to vacate the petitioner from the possession of an extent of Ac.1.85 cents in Sy.No. 298 in Patta No. 412 is illegal, void and consequently directing the respondents herein not to evict the petitioner herein from the lands of Sri Veereswara Swamy @ Veerabadra Swamy Temple, Paturu Village, Kovur Mandal, Nellore District, which is in our possession till the appeal is disposed of by the 1st respondent.

Counsel for the Petitioner: MR.B.KAMALAKARA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: Smt.N.INDRANI

The Court made the following:

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ORDER:

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The petitioner claims to be a cultivating tenant of the 3rd respondent temple of an extent of Ac.1.85 cents of land, situated in Survey No.298 of Paturu village of Kovur Mandal. The petitioner earlier filed W.P.No.12329 of 2004 before this Court, claiming that being a landless poor person, he is entitled to the protection under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), and therefore, the respondents are not entitled to dispossess him. The said writ petition was disposed of by this Court by order dated 16.07.2004, directing the petitioner to make an application before the Assistant Commissioner of Endowments, Nellore within a period of three weeks, seeking a declaration that he is a landless poor person in terms of the Sec.82 of the Act and the Assistant Commissioner of Endowments shall decide the said issue expeditiously. This Court also directed that till such time, the petitioner should not be dispossessed.

2. In pursuance of the said order of this Court, the Assistant Commissioner of Endowments, who is the

2nd respondent herein, having conducted an enquiry, passed an order on 29.10.2004 rejecting the claim of the petitioner that he is a landless poor. The petitioner states that challenging the said order, he preferred an appeal before the

1st respondent/Regional Joint Commissioner, Endowments, Tirupati on 11.11.2004 along with an application for stay of the operation of the order dated 29.10.2004. The grievance of the petitioner is that the 1st respondent failed to consider his appeal and no orders have been

passed even on his application for stay so far. In the meanwhile the 3rd respondent is taking steps to dispossess the petitioner from the land in question. Hence the writ petition.

3. Having heard the learned counsel for the petitioner, the learned Government Pleader for Endowments appearing for the respondents 1 and 2, and keeping in view that a Statutory appeal is pending before the 1st respondent, I am of the view that the possession of the petitioner in respect of the land in question shall be protected till the disposal of the Statutory appeal.

4. Accordingly, the Writ Petition is disposed of, with a direction to the 1st respondent to dispose of the appeal pending on his file, against the order of the 2nd respondent dated 29.10.2004, as expeditiously as possible, preferably within a period of 8 (eight) weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall not be dispossessed from the land in question. No costs.

Note:

Issue CC in two days

B/o.

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Joint Commissioner of Endowments,
Tirupati, Chittoor District
2. The Assistant Commissioner of Endowments,
Nellore, Nellore District
3. The Person in Management,
Sri Veereswara Swamy @ Veerabadra Swamy Temple,
Paturu Village, Kovur Mandal, Nellore District
4. Two CCs to the Government Pleader for Endowments,
High Court Buildings, Hyderabad (OUT)
5. Two CD copies.